

Town of Frederick Board of Trustees



Eric Doering, Mayor

Tony Carey, Mayor Pro Tem
Amy Schiers, Trustee
Sue Wedel, Trustee

Rafer Burnham, Trustee
Fred Skates, Trustee
Jim Wollack, Trustee

AM 2010-101

To Consider a Request to Waive the Residential Protection Standards for Mustang Concepts

Agenda Date: October 12, 2010

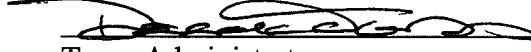
Attachments:

- a. Mustang Concepts response to Waiver Criteria
- b. Letter from Residents within protection area
- c. Responses from neighboring property owners

Fiscal Note: None noted or provided Fiscal note


Administrative Services Director

Submitted by: Jennifer Simmons
Planning Director

Approved for Presentation: 
Town Administrator

AV Use Anticipated Projector x Laptop

Certification of Board Approval:

Town Clerk

Date

Summary Statement:

An automobile restoration service has moved into an existing building in Town. The use is permitted, however, residential protection standards apply because there is a residential unit within the Industrial zone.

Detail of Issue/Request:

Request:

Upon receipt of a business license for Mustang Concepts, it was determined that the business could not fully operate at the location of 3762 Imperial St., Unit C. The residential protection standards found in Land Use Code Section 3.4 prohibit an auto body shop from completing paint and/or bodywork closer than 250' to a residence, regardless of the zoning district.

Mr. Blea was unaware of the requirement when he moved his business into the building at 3762 Imperial St., Unit C. Since becoming aware of the conflict, he has used an off-site facility to complete the paint and bodywork necessary to operate his business.

The property at 3762 Imperial Street is south of the Glacier Park Self Storage facility which includes a residential caretaker unit. The Land Use Code requires that minimum distances are measured from the nearest property line of one designated location to the nearest property line of the other designated location along a straight line extended between the two points without regard to intervening structures. Because the two affected properties are directly across the street from each other, the minimum distance is not met. However, when considering the specific location of the business and the specific location of the residence, it is possible to meet the minimum distance requirement.

Review Criteria: Article 4 of the Land Use Code identifies the purpose and review criteria for a Waiver Application. They are as follows: Purpose. The Board of Trustees authorizes waivers from the Land Use Code in cases where, due to exceptional conditions peculiar to the site, practical difficulties or an unnecessary hardship is placed on the landowner. Such waiver shall not be granted if it would be detrimental to the public good, create a conflict with the Comprehensive Plan, or impair the intent and purpose of this Code.

- a. Purpose. The Board of Trustees authorizes waivers from the Land Use Code in cases where, due to exceptional conditions peculiar to the site, practical difficulties or an unnecessary hardship is placed on the landowner. Such waiver shall not be granted if it would be detrimental to the public good, create a conflict with the Comprehensive Plan, or impair the intent and purpose of this Code.
- b. Waiver application; waiver requests in conjunction with other applications. In addition to the requirements of Appendix A, the Applicant shall submit the following to the Planning Department in conjunction with another application:
 - (1) Explanation letter, identifying the waiver being requested and explaining what exceptional condition, practical difficulty or unnecessary hardship exists to require the waiver. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.
- c. Waiver criteria for approval. The condition of any waiver authorized shall be stated in writing in the minutes of the Board of Trustees with the justifications set forth. Waivers may be granted only if they meet the following criteria:

- (1) The waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.
- (2) The waiver, if granted, is the minimum variance that will afford relief and is the least modification possible of the subdivision ordinance provisions which are in question.
- (3) Such practical difficulties or unnecessary hardship has not been created by the applicant.

The applicant's response to the review criteria can be found in the attached document. The responses have been considered by staff. The essential character of the neighborhood will not be altered nor will the value of the land or surrounding land be diminished. The waiver will afford relief to the applicant without impact on the adjacent properties. The applicant did not knowingly move in with disregard to the Land Use Code and thus did not create the hardship. The applicant has agreed to allow periodic air quality checks as needed.

Legal/Political Considerations:

Legal staff has reviewed the application materials.

Alternatives/Options:

The Board of Trustees may choose whether or not to approve the waiver.

Financial Considerations:

Not applicable

Staff Recommendation:

Staff recommends approving the waiver request.